IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6566 of 1999

with

FIRST APPEAL Nos. 6568 to 6569, 6573 to 6577, 6579 to 6591, 6594 to 6623, 6625 to 6632, 6634 to 6638, 6640 to 6648, 6650 to 6651, 6653 to 6656, 6663 to 6667, 6669, 6671, and 6672 of 1999

with

CIVIL APPLICATION Nos.5760, 5762 to 5763, 5767 to 5771, 5773 to 5785, 5788 to 5817, 5819 to 5826, 5828 to 5832, 5834 to 5842, 5844 to 5845, 5847 to 5850, 5857 to 5861, 5863, 5865 and 5866 of 2000.

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

STATE OF GUJARAT

Versus

KANJIBHAI NARSINGBHAI PATEL

Appearance:

MR MUKESH PATEL, AGP, for the appelants.

MR NK MAJMUDAR for the respondents.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 05/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this group of 87 appeals, common questions are involved arising out of common judgment and awards. Therefore, upon joint request, they are being disposed of by this common judgment.

Notification under section 4(1) of the Land Acquisition Act, 1894 (Act) was published on 8.8.74 for the land acquisition and rehabilitation of Dharoi Project and pursuant to that, lands of the respondents, original claimants, came to be acquired and the Special Land Acquisition Officer, determined Rs.4,300/- per acre for irrigated land and Rs.3300 per acre for non-irrigated land, by way of compensation of the land of the claimants. The acquired lands are situated in the sim of village Metral of Khedbrahma Taluka, Sabarkantha District.

The claimants being dissatisfied by the offer and award made by the Land Acquisition Officer, applied for references under section 18 of the Act. Pursuant to that, the Deputy Collector, Land Acquisition and Rehabilitation, Dharoi Project, made reference to the District Court, Sabarkantha. The appellants appeared in the references upon notices as opponents and filed composite written statement at Ex.11 and raised several contentions including the bar of limitation, the plea of res judicata and jurisdiction of the District Court in entertaining the second time application in reference against the award of the Land Acquisition Officer, as according to them, there had been a consent awards in so far as the original claimants were concerned.

There were about 100 references before the District Court, which came to be consolidated and common evidence came to be recorded and the references came to be decided by a common judgment, whereby, the District Court, partly, allowed the references. The appellants are directed to pay to the respondents, original claimants, additional amount of Rs.9481/- for irrigated and Rs.7036 for non-irrigated land over and above the amount awarded

by the Land Acquisition Officer, placing reliance on the documentary evidence and certain awards, which are directly under challenge before us, in this group of 86 appeals. Our attention was invited to a decision of this Court dated 19.4.2001 in the group of First Appeal Nos.4205 to 4331 of 1999 (Coram: M.R.Calla & D.H.Waghela, JJ) and also another decision of this Bench in First Appeal Nos.2363/99 to 2478/99 and others. They are, also, pertaining to the same project and, virtually, common questions had been raised. In this group of matters also, similar issues have been raised. One of the issues being the bar of limitation and the plea of res judicata. The parties could not adduce certain evidence and some of the documentary evidence in the form of registers which were common in many matters, have been produced in some other group of matters and, therefore, there was, consensus that for effective and effectual adjudication, remand order is necessary to the reference Court with opportunity of leading evidence on all the points. After having taken into consideration the facts and circumstances and the joint submissions raised before us, we are, also, satisfied that the consensual request for remand is, manifestly, justified. This group of appeals, is, therefore, squarely covered by the aforesaid two Division Bench decisions of this Court.

In the result, we are left with only one alternative, that is to accept the request to remand matters. Consequently, the impugned common judgment and resultant awards in favour of the respondents, original claimants and questioned in this group of appeals shall stand quashed and set aside. The entire group is directed to be remitted to the reference Court with a direction to permit the parties to lead evidence on all the points, like a, 'de-novo' proceedings. Since we are remitting the entire group to the reference Court, obviously, without expressing any opinion on the issues raised in the appeals and the reference Court shall have to determine and decide, after permitting evidence to be adduced by the parties on all the points, in accordance with law, as expeditiously as possible, and preferably within a period of three months from the date of receipt of record and proceedings and the writ of this Court. In view of the peculiar facts and special circumstances, it will be open for the parties or their advocates to appropriately, request the concerned District Judge for allotment of the said work to a particular Judge or a Court, who may be able to consolidate all the groups, if need be, and deal and dispose of as expeditiously, as possible since the gist and genesis of this group of appeals would go to show that they are very old and

sensitive matters. Upon such a request being made, the concerned District Judge shall pass appropriate order after hearing the advocates of the parties, so as to save time, money and to a extent lessen the burden on the unbreakable backlog.

Upon the suggestion of the learned advocates, the parties are directed to cooperate with the hearing of the references for early disposal. The parties are directed to appear before the reference Court for further proceedings on 6th August, 2001. We do not propose to pass any order with regard to costs and the parties are left to bear their own costs. The appeals, therefore, allowed, to the aforesaid extent.

In view of the directions contained hereinabove and the remand order, no separate order is warranted in so far as the Civil Applications are concerned. Obviously, therefore, they shall stand disposed of.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)
(vjn)